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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

PLANNED PARENTHOOD  
 FEDERATION OF AMERICA, INC., et al.,

Plaintiff,

vs.

THE CENTER FOR MEDICAL  
 PROGRESS, et al.,

Defendants.

Case No. 3:16-CV-00236 (WHO)

Hon. William H. Orrick III

Defendants' Submission Regarding  
 CMP's Contacts with Law  
 Enforcement

Trial Date: October 2, 2019

**DEFENDANTS' SUBMISSION REGARDING CMP'S  
CONTACTS WITH LAW ENFORCEMENT**

The Court has held that “[e]vidence regarding defendants’ intent is admissible with respect to their intent to commit the RICO enterprise and to the competing narratives of the parties (whether defendants set out to harm these plaintiffs and/or to uncover illegal conduct through tools of journalism) and punitive damage defense generally.” Dkt. 835 at 2. “The relevant information regarding this intent includes: . . . (iv) the steps that defendants took to inform government officials or members of law enforcement about their findings, which as noted below should be agreed-to as stipulated fact or facts (because the evidence regarding the response of government officials or law enforcement is and continues to be excluded under the prior motion *in limine* rulings under Rule 403).” *Id.* Defendants continue to object to the Court’s exclusion of “the response of government officials or law enforcement.” However, in light of the Court’s ruling, Defendants propose the following facts be read to the jury:

1. In approximately September 2014, David Daleiden provided information through intermediaries to the Maricopa County, Arizona District Attorney’s Office to report crimes he believed had been committed by StemExpress, other tissue procurement organizations, and various abortion clinics. Daleiden provided the Maricopa County, Arizona District Attorney’s Office with documents and copies of recordings that CMP made of Planned Parenthood personnel.
2. On March 9, 2015, David Daleiden spoke on the phone with officials from the Oklahoma Attorney General’s Office to report crimes he believed had been committed by organizations in Oklahoma. These officials included Chief Assistant Attorney General Megan Tilly, Chief of Staff Melissa Houston, and First Assistant Attorney General R. Trent Shores. Daleiden provided the Oklahoma Attorney General’s Office with copies of recordings that CMP made at Planned Parenthood conferences or clinics.
3. On May 21, 2015, David Daleiden met with officials from the El Dorado County, California Sheriff’s Office and the El Dorado County, California District Attorney’s Office to make a criminal complaint against StemExpress. These officials included Sheriff John D’Agostini and Detective Sergeant Ed Falkenstein. Defendant Albin Rhomberg and non-party Holly O’Donnell were also in attendance. Daleiden provided the El Dorado County officials with copies of recordings that CMP made at Planned Parenthood conferences or clinics.

4. On May 22, 2015, David Daleiden met again with officials from the El Dorado County, California Sheriff's Office and the El Dorado County, California District Attorney's Office. The officials in attendance at this meeting included Detective James Peterson, Detective Anthony Prencipe, and Deputy District Attorney Patricia Kelliher. Daleiden provided the El Dorado County officials with copies of recordings that CMP made at Planned Parenthood conferences or clinics.
5. In approximately May 2015, David Daleiden provided information through intermediaries to the Orange County, California District Attorney's Office to report crimes he believed had been committed by DaVinci Biosciences, DV Biologics, and various abortion clinics. Daleiden provided the Orange County, California District Attorney's Office with documents and copies of recordings that CMP made of Planned Parenthood and other personnel.
6. On several occasions in May and June 2015, David Daleiden spoke with the staff of various members of Congress to explain the results of CMP's investigation and the need for government oversight and criminal prosecution.
7. On June 24, 2015, David Daleiden attended an in-person meeting with various members of Congress to explain the results of CMP's investigation. These members of Congress included the Hon. Diane Black, Congresswoman from Tennessee, the Hon. Trent Franks, Congressman from Arizona, the Hon. Tim Murphy, Congressman from Pennsylvania, and the Hon. Joe Pitts, Congressman from Pennsylvania. At that meeting, Daleiden reported crimes he believed had been committed by Planned Parenthood Federation of America, various Planned Parenthood affiliates, StemExpress, Advanced Bioscience Resources, Novogenix Laboratories, DaVinci Biosciences, and DV Biologics.
8. Prior to June 26, 2015, David Daleiden spoke with officials from the Maricopa County, Arizona District Attorney's Office to provide further information relating to crimes he believed had been committed by StemExpress, other tissue procurement organizations, and various abortion clinics. Daleiden provided the Maricopa County, Arizona District Attorney's Office with additional documents and copies of recordings that CMP made of Planned Parenthood personnel.
9. On June 26, 2015, David Daleiden spoke on the phone with officials from the Arizona Attorney General's Office to report crimes he believed had been committed by StemExpress, PPFA, Tissue BioSource, and Advanced Tissue Services. These officials included Chief Counsel Civil Litigation Paul Watkins and another official. Daleiden provided the Arizona Attorney General's Office with copies of recordings that CMP made at Planned Parenthood conferences or clinics.

10. On June 26, 2015, David Daleiden spoke on the phone with officials from the Michigan Attorney General's Office to report crimes he believed had been committed by StemExpress, Planned Parenthood Federation of America, Planned Parenthood Mid-South Michigan, and Northland Family Planning. These officials included Chief Deputy Attorney General Matthew Schneider and Chief Legal Counsel Laura Moody. Daleiden provided the Michigan Attorney General's Office with copies of recordings that CMP made at Planned Parenthood conferences or clinics.
11. On July 3, 2015, David Daleiden spoke on the phone with officials from the Texas Attorney General's Office to report crimes he believed had been committed by StemExpress, Planned Parenthood Gulf Coast, Planned Parenthood Center for Choice, and Planned Parenthood Federation of America. These officials include Deputy Director of Law Enforcement Division David Maxwell. Daleiden provided the Texas Attorney General's Office with copies of recordings that CMP made at Planned Parenthood conferences or clinics. At the request of the Texas Attorney General's Office, CMP delayed publication of the results of its investigation.
12. On July 14, 2015, CMP begins the release of the results of its investigation, including surreptitious recordings of various meetings, a documentary featuring interviews with a whistleblower, physical and electronic documents gathered, and press releases explaining CMP's conclusions.

Defendants submitted a substantially similar version of the above facts to Plaintiffs via email. Plaintiffs rejected the proposed facts and stated the following:

Jeff, Counsel:

Thank you for the proposal. It is not something that we can agree to. Defendants' proposal is inaccurate in several respects. First, it omits that Defendants carefully identified law enforcement they knew to be pro-life. Second, Defendants' proposed facts prejudicially implies that crimes were committed. Third, specific facts are contrary to the documents produced in this case. We propose the following:

In 2015, David Daleiden, Albin Rhomberg and other participants in the Human Capital Project identified, spoke, and met with law enforcement officials they believed would be receptive to allegations about Planned Parenthood including the Attorneys General for Michigan, Arizona, Texas and Oklahoma, the Sheriff and District Attorney in El Dorado County, California and four members of the House of Representatives.

Amy

Email from Bomse to Trissell (Sep. 27, 2019, 6:11 p.m.)

1 Defendants believe their version of the facts to be read to the jury is both accurate and  
2 appropriate for this case. Thus, Defendants request that the Court adopt it in full.

3  
4 Respectfully submitted,

5 /s/ Charles S. LiMandri

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